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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

MAGWITCH L.L.C.,

Plaintiff,

V.

PUSSER'S INC., PUSSER'S LTD.,  
PUSSER'S WEST INDIES LIMITED and  
CHARLES S. TOBIAS,

**Defendants.**

08 Civ. 2144 (LTS)

**NOTICE OF MOTION  
TO REMAND**

**PLEASE TAKE NOTICE**, that upon the annexed affidavit of Andrew W. Heymann, Esq., a partner of Solomon Pearl Blum Heymann & Stich LLP, attorneys for Plaintiff herein, sworn to April 3, 2008, and the exhibits annexed thereto, and upon all of the other papers filed and proceedings had heretofore herein, Plaintiff Magwitch L.L.C. will move this Court, at the United States Courthouse located at 500 Pearl Street, New York, New York, 10007, before the Honorable Laura Taylor Swain, on a date to be determined by the Court, for an order, pursuant to 28 U.S.C. §1447 (c), remanding this case to the Supreme Court of the State of New York, New York County for lack of subject matter jurisdiction in this Court; awarding Magwitch L.L.C. is costs, actual expenses and attorneys' fees incurred as a result of the Defendants' removal of this action; and for such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE** that opposition papers shall be served pursuant to the Local Rules of this Court on or before April 21, 2008.

**PLEASE TAKE FURTHER NOTICE** that pursuant to Rule 2(B) of the Individual Rules of Practice of this Court, on April 2, 2008 I contacted the attorneys for the Defendants by email setting forth the relevant points and authorities on which Plaintiff relies on this motion and asked that the Defendants voluntarily remand this action to the Supreme Court of the State of New York, County of New York. In response, the attorneys for the Defendant drafted a letter to us, transmitted by email setting forth their points and authorities to as to which Plaintiff does not agree. Thus, there appears to be no amicable resolution to the issues raised on this motion.

Dated: New York, New York  
April 3, 2008

SOLOMON PEARL BLUM HEYMANN & STICH LLP

By: 

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